

REMARKS

It is respectfully requested that this application be reconsidered in view of the following remarks and that all of the claims remaining be allowed.

In the Office Action, the Examiner required the following restriction under 35 U.S.C. 121:

- I. Claims 1-10, drawn to method of increasing stem cell number, classified in class 435, subclass 6.91, for example.
- II. Claims 11-18, drawn to a method of identifying a gene which participates in ovarian hormone induced neural stem cell increase, classified in class 435, subclass 6, for example.
- III. Claims 19-21 (each in part) drawn to a method treating or ameliorating a neurodegenerative disease or condition in a mammal, wherein the disease or condition is a **stroke**, classified in class 424, subclass 562, for example.
- IV. Claims 19 and 22 (each in part), drawn to a method treating or ameliorating a neurodegenerative disease or condition in a mammal, wherein the disease or condition is **Alzheimer's Disease**, classified in class 424, subclass 562, for example.
- V. Claims 19 and 22 (each in part), drawn to a method treating or ameliorating a neurodegenerative disease or condition in a mammal, wherein the disease or condition is **multiple sclerosis(MS)**, classified in class 424, subclass 562, for example.
- VI. Claims 19 and 22 (each in part), drawn to a method treating or ameliorating a neurodegenerative disease or condition in a mammal, wherein the disease or condition is **Huntington's Disease**, classified in class 424, subclass 562, for example.
- VII. Claims 19 and 22 (each in part), drawn to a method treating or ameliorating a neurodegenerative disease or condition in a mammal, wherein the disease

or condition is **amyotrophic lateral sclerosis**, classified in class 424, subclass 562, for example.

VIII. Claims 19 and 22 (each in part), drawn to a method treating or ameliorating a neurodegenerative disease or condition in a mammal, wherein the disease or condition is **Parkinson's Disease**, classified in class 424, subclass 562, for example.

In response, Applicants elect Group I with traverse. The restriction requirement is respectfully traversed for the reasons set forth below.

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

- (a) The inventions must be independent or distinct as claimed; and
- (b) There must be a serious burden on the Examiner if restriction is not required.

MPEP §803. If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. Id.

Group III to Group VIII contain the same claims (claims 19-22). Claims 20-22 are all dependent from claim 19 and directed to methods of treating or ameliorating a neurodegenerative disease or condition using the same steps. The six groups can therefore be searched and examined together without serious burden on the Examiner. Consequently, the criterion under MPEP §803(b) is not satisfied.

In addition, it is further provided in MPEP §803.02:

If the members of the Markush group are sufficiently few in number or so closely related that a search and examination of the entire claim can be made without serious burden, the examiner must examine all the members of the

Markush group in the claim on the merits, even though they are directed to independent and distinct inventions.

Groups IV to VIII are each based on one member of a 5-member Markush group. Since the members of the Markush group are sufficiently few in number, pursuant to MPEP §803.02, all members must be examined together.

Accordingly, Applicants respectfully request that Groups III-VIII be joined to a single group containing claims 19-21.

Should the Examiner have any questions, a telephone call to the undersigned attorney for the Applicants would be appreciated.

Early examination of this application on the merits is earnestly solicited.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

By: _____

Ping F. Hwung
Registration No. 44,164
Attorney for Applicants
Redwood Shores, CA Office
(650) 622-2300

Post Office Box 140
Alexandria, Virginia 22313-1404

Date: June 17, 2003